

Remarks

Claims 1-8 are pending in this application. Applicant has amended Claim 1 to overcome § 103(a) Rejection. Accordingly, upon entry of these amendments, Claims 1-8 will be before the Examiner for reconsideration.

35 U.S.C. § 103(a) Rejection

1. The Examiner has rejected Claims 1-8 under 35 U.S.C. §103(a) as being unpatentable over Manzara (U.S. Pat. No. 5,681,904 hereinafter referred to as the Manzara reference) in view of Reed, et al., (U.S. Pat. No. 6,613,168 hereinafter referred to as the Reed reference). Applicant respectfully traverses the §103(a) rejection.

The reasons for the rejections stated in the Office action are as follows: 1) Manzara reference discloses the polymer process details, where multifunctional acetylene compounds are used as chain extenders for azide polymers such as GAP, BAMO/NMMO; Manzara reference discloses the use of a combination of difunctional and trifunctional compounds in order to vary the properties of the azide polymer; in the Manzara reference, the cross-linked polymers are disclosed for use in rocket propellant with oxidizers, aluminum particles, plasticizers, burn rate catalysts and stabilizers; and the Manzara reference refers to preferred temperatures for the cross-linking reaction are 0-90 degree C and the cross-linking can occur with or without a solvent. The office action states that the particular order of the steps is not disclosed. The Office Action further states that the "[I]t would have been obvious to one skilled in the art at the time the invention was made to vary the steps of the method and change the order of the steps in a method.

Combining the factual inquires set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966) and later endorsed by *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992), indicates that a prima facie case of obviousness is established when the Examiner provides the following elements:

1. One or more references
2. that were available to the inventor and

3. that teach
4. a suggestion or combine or modify the references,
5. the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

The office action gives its reasons for the obviousness rejection stated above as to the Manzara reference; however, the office action states that the obviousness rejection was rejected over Manzara, in view of the Reed reference, and does not give a reason for the combining of the Manzara AND Reed combination, nor any reason for the obviousness rejection of the Reed reference alone. Therefore, according to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966) and later endorsed by *In re Oetiker*, the Office action has failed to show a prima facie case of obviousness because no reason was given for the combination or suggestion of obviousness in the Manzara reference, in view of Reed reference.

However, Applicant had discussed the same obviousness rejections in the parent case Serial No. 10/449626, titled; "Triazole Crosslinked Polymers in Recyclable Energetic Compositions and Method of Preparing The Same," filed on 05/30/2003. It was agreed upon by both Examiner and Applicant, on April 12, 2004, that both the Manzara and Reed references do not teach a recyclable energetic composition, nor are any of the particular details of the ingredients disclosed in the Manzara reference. In that patent application, both Examiner and Applicant agreed to amend Claim 1 and placed the limitation of the recyclability of the energetic composition within the body of the claim to overcome the obviousness rejections. Additionally, Applicant believes that the structures taught in both the Manzara and Reed references do not produce a recyclable composition. Applicant respectfully believes that the same amendment in this patent application will also place the application in condition for allowance.

As a result, Applicant has amended Claim 1 and placed the limitation of the recyclability of the energetic composition within the body of the claim. Accordingly, reconsideration and withdrawal of the §103(a) rejections is respectfully requested.

The Commissioner is authorized to charge any fees associated with filing of this response to Deposit Account No. 50-0931.

Applicant submits that all grounds for rejection of claims presented herein have been addressed. Reconsideration and withdrawal for the §103(a) rejections of newly amended Claim 1 and its dependent Claims 2-8 are respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any aspect of this response, or if the examiner believes that any valid basis remains for maintaining the rejection of the claims presented in this application after entrance and consideration of the remarks presented herein.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'Ch A Haley', is written over a horizontal line.

CHARLENE A. HALEY
Attorney for Applicant
Registration No. 52,983

Navy Case No. 95901
NAWCWD
Office of Counsel, Code K00000D
1 Administration Circle, STOP 1009
China Lake, CA 93555-6100
Telephone: (760) 939-4177
Facsimile: (760) 939-0679